

## REAL ESTATE TRANSFER FEE

Wisconsin imposes a real estate transfer fee on transfers of real estate ownership interests located in Wisconsin. The rate is 30 cents for each \$100 of value or fraction thereof. On conveyances that are gifts or for nominal consideration, value is the estimated price the property would have sold for on the open market. On other conveyances, value is the full consideration paid for the property plus any liens on the property. Payment of the fee is the responsibility of the seller ("grantor") of the property interest. The real estate transfer fee was enacted in response to the repeal of the federal stamp tax. The fee became effective in 1969.

Value data from real estate transfer fee returns is the Department of Revenue's main source of information for determining changes in the fair market value of real property in the state. This information is used in the annual process of determining assessment/sales ratios and equalized values.

The fee is payable to the county register of deeds when the deed or instrument of conveyance is recorded. However, the fee for land contracts is due when the land contract is recorded. Completion of a real estate transfer return and payment of the appropriate fee is usually a prerequisite for the register of deeds to record the transaction. Each month, every county transfers 80% of the fees it has collected to DOR. The fee is a small, but growing source of revenue for the state. The table below (based on data from the Department of Administration) shows revenues from the fee since FY94.

REAL ESTATE TRANSFER FEE  
State Collections

Fiscal Year	Amount
1994	\$ 29,301,000
1995	27,805,000
1996	31,394,000
1997	33,536,000
1998	38,440,000
1999	43,971,000
2000	45,293,000
2001	44,224,000
2002	51,176,000
2003	57,384,000
2004	(est.) 68,702,000

Few taxpayers are aware of the fee, since it is only paid when real estate is transferred and such transfers occur only on rare occasions. Nevertheless, when it is paid, the fee raises considerable resentment. In the last several years, avoidance of the fee appears to be increasing through the careful structuring of real estate transactions to qualify for one of the several fee exemptions.

In FY04, all real estate transfer fee exemptions reduced the state's share of collections from these fees by an estimated \$29 million, or 42% of the amount that was actually collected. Exemptions for conveyances between family members, conveyances to trusts when that conveyance would have been exempt had it been made from the grantor to the beneficiary of the trust and conveyances between business entities and their owners accounted for about

\$21 million of the total revenue loss from exemptions.

The following types of transactions are exempt from the fee:

1. Easements (defined as not being a conveyance).
2. Leases for less than 99 years (defined as not being a conveyance).
3. Conveyances made prior to October 1, 1969 (the date the fee went into effect).
4. Conveyances from the United States, the state of Wisconsin, or from an instrumentality, agency, or subdivision of either.
5. Conveyances in the form of gifts to the United States, the state of Wisconsin, or to an instrumentality, agency, or subdivision of either.
6. Conveyances or dedication in a subdivision plat or certified survey for the purpose of a road, street, or highway to the United States, the state of Wisconsin, or to an instrumentality, agency, or subdivision of either.
7. Conveyances that confirm, correct, or reform a conveyance previously recorded for nominal, inadequate, or no consideration.
8. Conveyances on sales for delinquent taxes or assessments. These conveyances are also exempt from filing a transfer fee return. .
9. Conveyances on partition of real estate among owners for no consideration.
10. Conveyances pursuant to certain business mergers or reorganizations. Conveyances pursuant to mergers of corporations are exempt from the fee or pursuant to a partnership reorganizing as a limited liability partnership are exempt from the fee. Conveyances pursuant to conversions of limited partnerships, limited liability companies, business corporations, and non-stock corporations to other forms of business are exempt from the fee if, after the conversion, the ownership interests in the new entity are identical to the ownership interests in the entity immediately preceding the conversion.
11. Conveyances by a subsidiary corporation to its parent for no consideration, nominal consideration, or in sole consideration of cancellation, surrender, or transfer of capital stock.
12. Conveyances between husband and wife, parent and child, stepparent and stepchild, parent and son-in-law, or parent and daughter-in-law for nominal or no consideration.
13. Conveyances between agent and principal or from a trustee to a beneficiary without actual consideration are exempt from the fee.
14. Conveyances to provide or release security for a debt or obligation. However, for original land contracts filed before August 1, 1992, a transfer fee will be assessed when the documents relating to fulfillment of the land contract are filed.

15. Conveyances by will, descent, or survivorship. These conveyances are also exempt from filing a real estate transfer fee return.
16. Conveyances pursuant to or in-lieu of condemnation.
17. Conveyances of real estate having a value of \$100 or less.
18. Conveyances under a foreclosure or a deed in lieu of a foreclosure to a person holding a mortgage or to a seller under a land contract.
19. Conveyances between a corporation and its shareholders, a partnership and one or more of its partners, or a limited liability company (LLC) and its members if the transfer is for no consideration other than the assumption of debt or stock or other interest in the business entity and if all of the stock or other ownership interest is owned by persons who are related to each other as spouses, lineal ascendants or descendants, siblings, or spouses of siblings. Corporations and LLCs are eligible for the exemption only if the business entity has owned the property for at least three years.
20. Conveyances to a trust if a transfer from the grantor to the beneficiary of the trust would be exempt under other provisions of the real estate transfer fee law.
21. The recording of deeds in fulfillment of a land contract if the proper fee was paid when the land contract was recorded. (The fee on land contracts filed before August 1, 1992, is deferred until the contract is fulfilled. The fee on land contracts filed after July 31, 1992, is due when the contract is filed.) The intent of this provision is to prevent two fees from being imposed on the same land contract transaction.
22. Transfers of property to a local exposition district organized under Subchapter II of Chapter 229, Wis. Stats.
23. Conveyances from a fiduciary which held property for the benefit of an unincorporated nonprofit association to the unincorporated nonprofit association in the association's own name.
24. Conveyances of transmission facilities or land rights for transmission facilities by a utility company to a transmission company in exchange for securities in the transmission company. One transmission company, American Transmission Company (ATC), began operations in January 2001. Most of the state's largest electric utilities joined ATC and transferred their transmission assets in 2001.